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Attorneys for Plaintiff
SARAH VARGAS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SARAH VARGAS,
Plaintiff,
vs.
CITY AND COUNTY OF HONOLULU,
DAVID OH, CORPORAL COSTA, and
DOES 1-100,
Defendants.

CIVIL NO. 19-00116 LEK-WRP

PLAINTIFF SARAH VARGAS'
THIRD SUPPLEMENTAL INITIAL
DISCLOSURES AND EXPERT
WITNESS DISLCOSURES;
CERTIFICATE OF SERVICE

Judge: Hon. Leslie E. Kobayashi
Trial Date: November 16, 2020

**PLAINTIFF SARAH VARGAS' THIRD SUPPLEMENTAL INITIAL
DISCLOSURES AND EXPERT WITNESS DISCLOSURES**

Plaintiff Sarah Vargas ("Plaintiff"), by and through her attorneys Brian K. Mackintosh and Daniel G. Hempey, hereby submits Plaintiff Sarah Vargas' Third Supplemental Initial Disclosures and expert witness disclosures pursuant to the Federal Rules of Civil Procedure Rule 26(a)(1)(A) and Rule 26(a)(2) and the Third Amended Rule 16 Scheduling Order, Dkt. No. 227, at ¶11(b).

**I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE
INFORMATION**

The Plaintiff identifies the following persons who may have knowledge of discoverable information on liability and/or damages that may be used in support of her claims.

1. Plaintiff Sarah Vargas
c/o Law Office of Brian K. Mackintosh
1003 Bishop Street, Suite 1990
Honolulu, HI 96813
(808) 781-7229

Plaintiff will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

2. Defendant Thayne Costa
c/o Corporation Counsel
City and County of Honolulu
530 S. King St., Room 110
Honolulu, HI 96813
(808) 768-5233

Defendant Costa will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

3. Defendant David Oh
c/o Windward Dodge Chrysler Jeep
46-177 Kahuhipa St.
Kaneohe, HI 96744
(877) 785-0303

Defendant David Oh will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

4. Jessica Reyes
4080 Guadalcanal Ave Apt B
Kapolei, HI 96707-3529

Ms. Reyes will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

5. Stacey Wheeler and Clayton Wheeler
11426 Claymont Cir, #1
Windermere, FL 34786

Mr. and Mrs. Wheeler will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

6. Travis Kohatsu
State of Hawaii Organization of Police Officers
1717 Hoe St
Honolulu, HI 96819

Mr. Kohatsu will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

7. Detective Brandon Nakasone and Walter Ozeki
Honolulu Police Department
801 S. Beretania St.
Honolulu, HI 96813

Officers Nakasone and Ozeki will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

8. Susan Ballard
Chief of Police
Honolulu Police Department
801 S. Beretania St.
Honolulu, HI 96813

Chief Ballard will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

9. Darrin Sakanoi, Nicole Vallieres, Tiffany Smith, Custodian of Records, and Joshua Friedman
Federal Bureau of Investigations
21501 Investigations Parkway
Quantico, VA 22135

These individuals will testify as to what they did in the case, and issues relating to liability and damages.

10. Custodian of Records
Honolulu Police Commission
1060 Richards St.
Honolulu, HI 96813

The custodian of records will testify to the authenticity of the records produced.

11. Custodian of Records
Honolulu Police Department Administrative Review Board
Honolulu Police Department

801 S. Beretania St.
Honolulu, HI 96813

The custodian of records will testify to the authenticity of the records produced.

12. Det. Samuel Bardo
Professional Standards Office
Honolulu Police Department
801 S. Beretania St.
Honolulu, HI 96813

Detective Bardo will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

13. Allan Kuaana
Honolulu Police Department
801 S. Beretania St.
Honolulu, HI 96813

Allan Kuaana will testify as to his interactions with Defendant David Oh.

14. Troy Shimasaki, Acting City Auditor, City Auditor, and
Custodian of Records for the Office of the City Auditor, City
and County of Honolulu
1001 Kamokila Blvd., Suite 216
Kapolei, HI 96707
(808)768-3134

The City Auditor, Acting City Auditor, and/or Custodian of Records for the Office of the City Auditor will testify regarding the Audit of the Honolulu Police Department's Policies, Procedures, and Controls, Resolution 19-255.

15. Any individuals named in Defendants' Initial and/or Supplemental Disclosures.

II. PLAINTIFF'S EXPERT WITNESSES

1. Alexander Bivens, PhD
Pacific Psychology Partners, Inc.
P.O. Box 321
Anahola, HI 96703

Dr. Bivens will testify to as to the claims alleged in the Complaint and issues relating to liability and damages.

4. Chief of Police Nicholas A. Sensley, Ret.
P. O. Box 87
Lebanon, TN 37088

Chief of Police Sensley, Ret., will testify as to the claims alleged in the Complaint and issues relating to liability and damages.

III. DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND TANGIBLE THINGS THAT THE PLAINTIFF HAS IN ITS POSSESSION, CUSTODY, OR CONTROL THAT MAY BE USED TO SUPPORT CLAIMS

Pursuant to FRCP Rule 26(a)(1)(A)(ii) and based upon reasonably available information, Plaintiff Sarah Vargas identifies the following categories of documents, data, compilations and/or tangible things relating to her pursuit of this lawsuit:

1. Any and all documents, audio recordings, and/or video recordings produced by Defendants City and County of Honolulu and/or Defendant Thayne

Costa, as part of its document production responding to Plaintiff's First Request for Production of Documents and Things and any subsequent requests for production of documents and things.

2. Defendant City and County of Honolulu's Answer to First Amended Complaint filed July 15, 2019, filed July 30, 2019 as Dkt. No. 43
3. Defendant Thayne Costa's Answer to First Amended Complaint filed July 15, 2019, filed July 30 as Dkt. No. 44.
4. Defendant City and County of Honolulu's Response to Plaintiff's First Request for Admissions (Jan. 6, 2020).
5. Report of Plaintiff's Expert Nickolas Sensley.
6. Report of Plaintiff's Psychological Expert Alexander Bivens.
7. Report of Defendant's Psychiatric Expert Boyd Slomoff.
8. Report of Defendants' Expert Report of John Peters.
9. Rebuttal Report by Plaintiff's Expert Alexander Bivens
10. Supplemental Report of Plaintiff's Expert Nickolas Sensley.
11. Original materials referenced in the citations of any and/or all of Plaintiff's and/or defendants' expert reports.
12. Prepared Testimony of Officer David Oh and SHOPO Representative, Travis Kohatsu, C000690-698.
13. The Standards of Conduct of the Honolulu Police Department.

14. Legislative Disciplinary Report, Reporting year 2017.
15. IACP Law Enforcement Code of Ethics.
16. Honolulu Police Department Code of Ethics, Notice Number 2.21, page 10, C001165.
17. HPD Incident Report 17-097126 (March 14, 2017).
18. Audio File and Written Transcript of 911 calls placed by Jessica Reyes, produced as C000602-605.
19. Police radio calls produced as C000610-C000612.
20. Audio File and Written Transcript of the Predetermination Hearing of Officer David Oh August 30, 2018, C000690-C000707.
21. FBI interview of Defendant Thayne Costa, dated June 20, 2017.
22. FBI interview of Jessica Reyes, dated May 31, 2017.
23. Medical Records of Sarah Vargas.
24. 2020 Office of the City Auditor's Audit of the Honolulu Police Department's Policies, Procedures, and Controls, Resolution 19-255.
25. Memorandum from Susan Ballard, Chief of Police, to Troy Shimasaki, Acting City Auditor, Office of the City Auditor, re: Audit of the Honolulu Police Department's Policies, Procedures, and Controls (Dec. 1, 2020).

26. HPD Policy Number 7.02 (Security Control of Arrestees)
27. Laboratory Report from FBI Laboratory to Nicole Vallieres, re: Subject, David Oh/ Victim: Sarah Lee Vargas (July 13, 2017), C000512-520.
28. Recorded Interview of David Oh by Det. Alan H.K. Kuuana, (Feb. 1, 2019) (C000599).
29. Recorded Interview of Jessica Reyes by Brandon Nakasone (Feb. 2, 2018); C000601.
30. Recorded Interview of David Oh by Samuel Bardo (Nov. 28, 2017); C000616.
31. Recorded Interview of Thayne Costa by Samuel Bardo (Aug. 3, 2017); C000618.
32. Recording of the Administrative Review Board Hearing (May 6, 2017 (?)); C001058.
33. Suspension of Thayne Costa (Dec. 16, 1995); C002489.
34. Suspension of Thayne Costa (June 3, 1996); C002488.
35. Suspension of Thayne Costa (May 20, 1997); C002497.
36. Suspension of Thayne Costa (July 31, 1997); C002484.
37. Suspension of Thayne Costa (Nov. 18, 1998); C002482.
38. Suspension of Thayne Costa (July 24, 2000); C002471.

39. Suspension of Thayne Costa (Jan. 27, 2001); C002470.

40. Written Reprimand of Thayne Costa (April 3, 2006); C002467.

41. Defendant Thayne Costa's Response to Plaintiff's First Request for Answers to Interrogatories dated August 7, 2020, filed September 4, 2020.

42. Honesty Considerations signed by Thayne Costa (Aug. 21, 2016); C002528.

43. Thayne Costa's Request to Purge Records (Jan. 26, 2009); C002450.

44. HRS §§ 702-235 (Ineffective Consent); 707-700 (definitions), 707-711 (Assault II); 707-712 (Assault III); 707-731 (Sex Assault II), 707-732 (Sex Assault III).

IV. DAMAGES

Plaintiff alleges \$19,000,000 in damages. This includes special damages incurred from having to move from the State of Hawaii due to fear of being in Honolulu Police Department jurisdiction, and general punitive damages suffered for permanent psychological injury from being sexually assaulted by a police officer under color of law, pursuant to a failure to supervise and/or train by the Honolulu Police Department. Further special damages are requested based on Defendants' Psychiatric Expert Report of Boyd Slomoff,

MD, and Plaintiff's Psychological Rebuttal Report of Alexander Bivens, PhD. The course of treatment recommended by Dr. Slomoff and concurred with by Dr. Bivens is estimated conservatively to cost \$280,000.

DATED: Honolulu, Hawaii, this July 11, 2020.

/s/ Brian K. Mackintosh
BRIAN K. MACKINTOSH
DANIEL G. HEMPEY
MATEO CABALLERO
Attorneys for Plaintiff
SARAH VARGAS